Title 15 - Mississippi Department of Health

Part III – Office of Health Protection

Subpart 75 – Food Protection

CHAPTER 04 REGULATION GOVERNING MANUFACTURE AND SALE OF FOOD AND FOOD PRODUCTS

100 **Purpose**

This regulation prescribes requirements for the intrastate and interstate sale of food and food products, prevents the sale of adulterated or mislabeled food or food products, prescribes good manufacturing practices, adopts requirements for specific standardized foods, and provides for the issuing of permits to food manufacturers, processors, and warehouses. This regulation applies only to food and food products not otherwise regulated by existing state law.

101 **Authorization**

The State Board of Hea1th is authorized to promulgate these regulations under and by virtue of Section 75-29-19, Mississippi Code of 1972, Annotated.

102 **Adoption by Reference**

This regulation adopts by reference specific parts of the Code of Federal Regulations, 21 CFR, (Subchapter B (Food for Human Consumption), recommended by the U.S. Food and Drug Administration/U.S. Department of Health and Human Services, including, but not limited to, the following sections.

103 **Food for Human Consumption**

General requirements, including state and local requirements, misbranding for reasons other than labeling, and specific administrative rulings and decisions shall be regulated as set forth in 21 CFR Part 100.

Food labeling shall be regulated as set forth in 21 CFR Part 101.

Common or usual name for nonstandardized foods shall be regulated as set forth in 21 CFR Part l02.

Quality standards for food with no identity standards shall be regulated as set forth in 21 CFR Part -103.

Nutritional quality guidelines for foods shall be regulated as set forth in 21 CFR Part 104.

Foods for special dietary use shall be regulated as set forth in-21 CFR Part 105. Infant formula quality control procedures shall be regulated as set forth in 21 CFR Part 106.

Infant formula shall be regulated as set forth in 21 CFR Part 107.

Unavoidable contaminants in food for human consumption and food-packaging material shall be regulated as set forth in 21 CFR Part 109.

Current good manufacturing practice in manufacturing, packing, or holding human food shall be regulated as set forth in 21 CFR Part 110.

Thermally processed low-acid foods packaged in hermetically sealed containers shall be regulated as set forth in 21 CFR Part 113.

Acidified foods.sha1l be regulated as set forth in 21 CFR Part 114.

Seafood HACCP shall be regulated as set forth in 21 CFR Part 123.

Food standards: General shall be regulated as set forth in 21 CFR1 Part 130.

Cheeses and related cheese products shall be regulated as set forth in 21 CFR Part 133.

Bakery products shall be regulated as set forth in 21 CFR Part 136.

Cereal flours and related products shall be regulated as set forth in 21 CFR Part 137.

Macaroni and noodle products shall be regulated as set forth in 21 CFR Part 139.

Canned fruits shall be regulated as set forth in 21 CFR Part 145.

Canned fruit juices shall be regulated as set forth in 21 CFR Part 146.

Fruit butters, jellies, preserves, and related products shall be regulated as set forth in 21 CFR Part 150.

Fruit pies shall be regulated as set forth in 21 CFR Part 152.

Canned vegetables shall be regulated as set forth in 21 CFR Part 155.

Vegetable juices shall be regulated as set forth in 21 CFR Part 156.

Frozen vegetables shall be regulated as set forth in 21 CFR Part 158.

Eggs and egg products shall be regulated as set forth in 21 CFR Part 160.

Cacao products shall be regulated as set forth in 21 CFR Part 163.

Tree nut and peanut products shall be regulated as set forth in 21 CFR Part 164.

Margarine shall be regulated as set forth in 21 CFR Part 166.

Food dressings and flavorings shall be regulated as set forth in 21 CFR Part 169.

Food additives shall be regulated as set forth in 21 CFR Part 170.

Food additive petitions shall be regulated as set forth in 21 CFR Part 171.

Food additives permitted for direct addition to food for human consumption shall be regulated as set forth in 21 CFR Part 172.

Secondary direct food additives permitted in food for human consumption shall be regulated as set forth in 21 CFR Part 173.

Indirect food additives: General shall be regulated as set forth in 21 CFR Part 174.

Indirect food additives: Adhesives and components of coatings shall be regulated as set forth in 21 CFR Part 175.

Indirect food additives: Paper and paperboard components shall be regulated as set forth in 21 CFR Part I76.

Indirect food additives: Polymers shall be regulated as set forth in 21 CFR Part 177.

Indirect food additives: Adjuvants, production aids, and sanitizers shall be regulated as set forth in 21 CFR Part 178.

Irradiation in the production, processing and handling of food shall be regulated as set forth in 21 CFR Part 179.

Food additives permitted in food on an interim basis or in contact with food pending additional study shall be regulated as set forth in 21 CFR Part 180.

Prior-sanctioned food ingredients shall be regulated as set forth in 21 CFR Part 181.

Substances generally recognized as safe shall be regulated as set forth in 21 CFR Part 182.

Direct food substances affirmed as generally recognized as safe shall be regulated as set forth in 21 CFR Part 184.

Indirect food substances affirmed as generally recognized as safe shall be regulated as set forth in 21 CFR Part 186.

Substances prohibited from use in human food, shall be regulated as set forth in 21 CFR Part 189.

104 **Definitions of Food Establishment Types**

104.01 **Labeler/Relabeler.** An establishment which affixes the original labe1ing to a food product or changes in any way the labeling on a food product without affecting the product: or its container.

104.02 **Manufacturer.** An establishment which makes a new or a changed food product from one or more ingredients.

104.03 **Own Label Distributor.** An establishment which distributes a food product under a custom or own label. The product is manufactured and labeled by another establishment.

104.04 **Packer/Repacker**. An establishment which packs a food product or products into different containers without making any change in the form of the product.

104.05 **Salvage Operation**. A wholesaler or repacker who deals primarily in the resale and reconditioning of damaged food products.

104.06 **Warehouse.** A facility for the storage of consumer food products or the reshipment of products from the producer or grower to the manufacturer or other consumer. This can be temporary storage such as cream stations, the traditional warehouse, or grain elevator storing human food.

105 Procedures for Permits

105.01 General

From and after January 1, 1999, no person shall operate a food establishment defined in Section 104 as a manufacturer and which is in a risk category 3,4, or 5 (Appendix A) without first obtaining a permit for the operation of that facility from the State Department of Health (hereafter referred to as Health Authority). An annual permit fee shall be paid as authorized in Sec. 41-3-18 Mississippi Code of 1972, Annotated. Any other food establishment of a type defined in Section 104 may be permitted by the Health Authority if requested or otherwise required.

105.02 Issuance of Permit

1. Any person desiring to operate a food establishment of a type required to have a permit or who is requesting a permit shall make written application for a permit on forms provided by the Health Authority.

2. Prior to approval of an application for a permit, the Health Authority shall inspect the proposed food establishment to determine compliance with the requirements of this regulation and applicable state law.

3. The Health Authority shall issue a permit if the inspection reveals that the proposed food establishment complies with the requirements of this regulation and applicable state law.

4. Each permit shall be issued only for the premises and owner named in the application, and shall not be transferable or assignable.

5. Each permit shall be issued for a period of one year.

105.03 **Renewal of Permit**

A permit issued under the provisions of this regulation shall be renewed annually upon determination by inspection that the facility complies with this regulation.

105.04 **Emergency Suspension of Permit**

1. Any permit issued pursuant to this regulation may be suspended prior to a hearing if the Health Authority has reasonable cause to suspect that the continued operation of the permitted establishment constitutes a substantial hazard to the public health.

2. Whenever a permit is suspended, the holder of the permit or person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for hearing will be provided if requested in writing within ten days of the receipt of the notice of suspension. If no written request for hearing is filed within ten days, the suspension is sustained.

3. The Health Authority may relinquish the suspension at any time if reasons for suspension no longer exist.

105.05 **Denial or Revocation of Permit**

1. Grounds for denial or revocation of a permit shall include but not be limited to:

    a. Failure to complete the information requested on the application.

    b. Falsification of information submitted on an application for a permit.

    c. Refusal to allow inspections by the Health Authority, or other interference in the performance of duty.

    d. Violation of the Regulation Governing Manufacture and Sale of Food and Food Products of the State Board of Health or violations of Sections 75-29-1 through 75-29-29, Mississippi Code of 1972, Annotated.

    e. Failure to correct violations of inspection standards within the time specified following inspection.

    f. Any circumstances where the operation of the food establishment constitutes a hazard to the public health.

2. Notice: Prior to revocation or denial of a permit, the owner of the food establishment shall be notified, in writing of the proposed action, together with the reasons for same. Said notice shall provide owners/applicants ten days in which to request a hearing.

3. Hearing: If requested in writing, a hearing shall be scheduled within the State Department of Health not less than ten days nor more than 30 days following receipt of the request. On the basis of such hearing, the State Department of Health shall make a decision with respect to proposed action. This decision, together, with the findings of the hearing officer, and reasons for the decision, shall be forwarded to the owner/applicant within 30 days of the hearing.

106 **Plan Review, Inspections, Sampling and Labeling**

106.01 **Review of Plans and Specifications**

Prior to the construction, remodeling or conversion for use as a food establishment plans and specifications shall be submitted to the Health Authority for review and approval. The plans and specifications shall include a description of the food processing; indicate the proposed layout, arrangement, and construction materials of work areas and the type and model of proposed fixed equipment and faci1ities to the extent necessary to determine whether the proposed facility will comply with the Regulation Governing Manufacture and Sale of Food and Food Products.

106.02 **Inspections**

1. The Health Authority shall inspect each food establishment prior to issuing a permit, and shall make as many additional inspections as are necessary for the enforcement of this regulation.

2. Whenever an inspection is made of a food establishment, the findings shall be recorded on an official inspection form, and furnished to the person in charge of the food establishment at the time of the inspection, or posted in a conspicuous place.

3. If violations noted on the inspection form are not corrected within the period of time specified by the Health Authority, a permit may be denied, suspended or revoked in accordance with this regulation.

4. The Health Authority may enter any food establishment, during normal hours of operation, for the purpose of making inspections, or investigations to determine compliance with this regulation, or collecting necessary information or documents.

106.03 **Examination or Sampling of Food**

Food samples for laboratory analysis may be collected by the Health Authority as often as necessary for enforcement of the regulation.

106.04 **Review of Labels**

Labels of any food or food product regulated by the State Department of Health are subject to review and approval by the Health Authority.

107 Hazard Analysis Critical Control Points (HACCP)

Any permitted food establishment shall operate under a HACCP plan / food safety plan approved by the Health Authority, if required under Federal statutes. If not required under Federal statutes, any permitted food manufacturer, repacker/packer, and/or salvage operation which is in a risk category 3, 4 or 5 shall establish and operate under a HACCP plan / food safety plan, as approved by the Health Authority, and which shall contain as a minimum:

107.01 A hazard analysis for all types of potentially hazardous foods that are manufactured, packed/repacked, or salvaged.

107.02 A flow diagram by specific food or category type identifying critical control points and providing information on

1. ingredients, materials, and equipment, and
2. formulations or recipes.

107.03 A written HACCP plan / food safety plan which identifies:

1. each critical control point,
2. the critical limits for each critical control point,
3. the method and frequency for monitoring and controlling each critical control point,
4. corrective action to be taken if the critical limits for each critical control point are not met,
5. written records to document that the HACCP plan / food safety plan is properly implemented, and
6. written Standard Sanitation Operating Procedures (SSOP's) in place which insure compliance with the good manufacturing practices of 21 CFR Part 110; and additional scientific data or other information or training, as required by the Health Authority, supporting the determination that food safety is not compromised by the proposal.

APPENDIX A

Food Processing Risk Assessment

Risk categorization allows establishments to be ranked by considering risk factors and creating a variable inspection frequency for each category. There shall be from one to five levels of risks established. The minimal frequency of inspection shall be as follows:

Risk/Fee Level	Risk Type Category Description	Frequency (# per year)	Examples Including but Not Limited To:
1	Pre-packaged non-potentially hazardous foods only	**1**	Warehouses handling dry products only Relabelers
$15			
2	Minimal food preparation of NPH Products repacked for sale	**1-2**	Repackers, warehouses holding PHF which require temp. control
$30	Hot or cold holding of packaged foods		Jellies, jams, spices, dry mixes
3	Wholesale processing of raw non- ready-to-eat products	**2-3**	Wholesale processing (pH foods) ex. catfish
$70	Commercial bakeries		Bakeries
4	Wholesale processing of PHF	**3-4**	Wholesale processing of PHF such as sandwich mfg., low acid ready-to-eat products
$100			Raw, unprocessed ready-to-eat products (salads, nuts)
5	Extensive handling of large volumes of raw potentially hazardous ingredients / extended hours	**3-4**	Processors of PHF requiring HACCP plans or equivalent. (ex. seafood processor of ready-to-eat products)
$150	Food processing of PHF (wholesale or retail) which require HACCP plan or food safety plan		Smoking, curing, reduced oxygen packaging, acidified product